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REMARKS

Claims 1-22, 27-37 and 47-52 remain in the application and new claims 62 to 80 have been added.

Election

Claims 23 to 26, 38 to 46 and 53 to 61 have been cancelled as being directed to non-elected claims. The cancellations are made without prejudice to filing a divisional application in due course for these non-elected claims.

Allowable Claims

The Examiner indicated that claims 6 to 11 and 7 to 22 would be allowable if rewritten to include the subject matter of their base claims and any intervening claims.

The Examiner's consideration in this regard is appreciated.

Claim Rejections - 35 USC 112

Claim 1 has been amended to clarify the meaning of "active area" and the calculation of the percentage that the active area occupies on the total membrane surface area.

The claim amendments clarify that the active area on the membrane is that area open both (i) on the outer facing side to the fluid to be analyzed and (ii) on the inner facing side for contact with collector fluid flow in the channel.

Obviously, the membrane will have a total membrane surface area that can be measured on one of its inner facing or its outer facing planar surfaces. The active area represents that portion of membrane material through which analyte may pass from the fluid being analysed to the collector fluid. Thus, claim 1 has been clarified to recite that the active area be at least 20% of the total membrane surface area.

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In view of the foregoing, it is noted that the Examiner's assumption with respect to the meaning of "active area" may have been incorrect. Favorable reconsideration is respectfully requested in view of the claim amendments.

Claim Rejections – 35 USC 103

Claims 1, 4, 5 12 to 16 and 27 to 37 were rejected under 35 USC 103(a) as being unpatentable over Gardiner et al., which is US Patent no. 3,830,106. Gardiner was also used as the basis for 35 USC 103(a) rejections for further claims of the application, wherein claims 2 and 3 were rejected as being unpatentable over Gardiner in view of Lucero (US Patent no. 3,926,561), claims 47 and 48 were rejected as being unpatentable over Gardiner in view of Long et al. (US Patent no. 3,830,106), claims 49 and 50 were rejected as being unpatentable over Gardiner in view of Long et al. and in further view of Taylor et al. (US Patent application no. 2002/0184956) and claim 51 was rejected as being unpatentable over Gardiner in view of Long et al. and in further view of Kahl (US Patent no. 5,487,312).

The Examiner's rejections all rely on the reference of Gardiner as teaching the invention. Applicant does not agree that Gardiner teaches or even suggests the invention.

First, Gardiner teaches a tubular membrane and does not teach or suggest a sheet-form membrane. A sheet-form membrane is known to include side and end perimeter edges. Claim 1 has been amended to specifically recite this known feature of a sheet-form membrane.

Second, recalling that an active area is that area on the membrane which is open both (i) on the membrane's outer facing surface to the fluid to be analyzed and (ii) on the membrane's inner facing surface for contact with collector fluid flow in the channel, Gardiner does not teach or suggest an active area that is at least 20% of the total membrane surface area. The active area of Gardiner is the area of the membrane over the helical groove, while the total surface area of Gardiner's membrane extends from a

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position adjacent ring 4 to a position adjacent ring 5. Clearly, the active area of Gardiner's probe is much less than the 20% of total surface area required by claim 1.

Third, Gardiner does not teach or suggest the limitation to include a channel with a width at least 5 times greater than its depth. While the Examiner notes that the cited reference includes some optional language with respect to a discussion on its groove configuration, such language is so vague that it cannot be considered to teach a skilled person the present limitation, which limitation is significantly different than anything taught in Gardiner. Further, the limitation clearly represents an inventive advance over the prior art and is not merely "an optimum value of a result effective variable", as suggested by the Examiner.

The secondary references, Lucero, Long, Taylor and Kahl, add nothing to Gardiner that would render claim 1 obvious.

Since, claim 1 is clearly distinguished over the cited prior art, the Examiner is requested to withdraw the rejections under 35 USC 103(a) based on Gardiner and the secondary references.

Also, in view of the clear patentability of claim 1, applicant has not deemed it necessary to address specifically the various arguments against the dependent claims. It is noted however, that applicant does not agree with various of the rejections made by the examiner with respect to the dependent claims.

Claim Rejections – Claim 52

The rejection of claim 52 was not clearly defined. Applicant is not clear of the basis for the rejection and the prior art to be considered therein.

The Applicants are confident that the foregoing remarks will overcome all rejections in the application. However, if the Examiner wishes to continue with his rejection of claim 52, Applicants request that the Examiner clarify the basis for the rejection.

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New Claims

New claims are added that are fully supported by the application, as filed.

Claim 64 has been added as an independent claim focusing on the subject matter of claim 17. It is noted that claim 17 was indicated by the Examiner as being allowable.

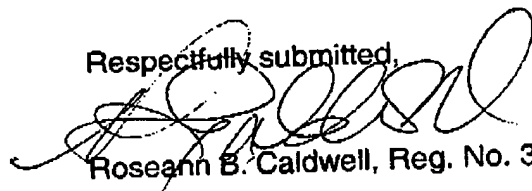
Claim 70 has been added to describe another aspect of the present invention.

Information Disclosure Statement

The Examiner requested a follow up information disclosure statement with a focus on prior art references relating to "using measured concentration of a component of interest; and adjusting a collector fluid flow rate to bring measured concentration into a selected concentration range." An information disclosure statement follows by courier listing a few additional references.

Applicants have addressed all rejections raised by the Examiner. Favorable consideration is respectfully requested. If the Examiner considers that there are any outstanding issues, please do not hesitate to contact applicant's agent by telephone.

Respectfully submitted,



Roseann B. Caldwell, Reg. No. 37,077

BENNETT JONES LLP
4500 Bankers Hall East
855 - 2nd Street SW
Calgary, Alberta
CANADA T2P 4K7
(403) 298-3661

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